

EUGENE ELLARD.

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JUNE 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

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Mr. SULZER, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 6971.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6971) to remove the charge of desertion standing against the name of Eugene Ellard, report the same back to the House with the recommendation that it do pass with the following amendment:

*Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.*

The report from the War Department and two affidavits made by the claimant are hereto annexed and made a part of this report.

The case is a meritorious one, and the bill should pass.

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RECORD AND PENSION OFFICE, WAR DEPARTMENT,  
*Washington City, January 21, 1898.*

SIR: Referring to your letter of yesterday, received to-day, in which you inclose an affidavit of Eugene Ellard with a view to removal of the charge of desertion standing against him on the records of Company B, Thirty-first New York Infantry Volunteers, and inquire what additional evidence is necessary to enable this Department to afford the desired relief in the case, I am directed by the Secretary of War to inform you that the records show that Eugene Ellard was enrolled and mustered into service October 1, 1861, as a private in Company B, Thirty-first New York Infantry Volunteers, to serve two years. He appears to have served faithfully until April 28, 1863, when he deserted.

He never returned to the Thirty-first New York Infantry Volunteers, but enlisted January 16, 1865, under the name Owen Ellard, in Company F, Twenty-fourth Massachusetts Infantry Volunteers, in violation of the twenty-second (now fiftieth) article of war. He appears to have served faithfully as a member of this organization until January 15, 1866, when he was honorably mustered out with his company.

The application for removal of the charge of desertion and for an honorable discharge in the case of this soldier, as of Company B, Thirty-first New York Infantry Volunteers, has been denied by this Department. The act of Congress approved March 2, 1889, is the only law now in force governing the subject of removal of charges of desertion, and inasmuch as that law specifically provides, as a condition

to favorable action in a case of this kind, that the period of a soldier's absence from service must not have exceeded four months, and as the records show that the period intervening from the date of this soldier's desertion from Company B, Thirty-first New York Infantry Volunteers, to the date of his enlistment in Company F, Twenty-fourth Massachusetts Infantry Volunteers, exceeded twenty months, his case appears to be one in which no relief can be afforded under existing law, and the Department is, therefore, constrained to adhere to its former adverse decision.

The applicant's only hope for relief lies in special legislation by Congress.

Very respectfully,

F. C. AINSWORTH,

*Colonel, United States Army, Chief Record and Pension Office.*

Hon. I. F. FISCHER,

*House of Representatives.*

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STATE OF OHIO, *County of Montgomery, ss:*

In the matter of Eugene Ellard, personally appeared this the 19th day of January, 1898, Eugene Ellard, aged 81 years, born in Ireland, now an inmate of the United States Military Home, Dayton, Ohio, being duly sworn, deposes as follows: That in April, 1861, he enlisted in Company B, Second Connecticut Volunteer Infantry Regiment for three months, and was honorably discharged from the regiment at the expiration of term of service, July, 1861. In October, 1861, he reenlisted in Company B, Thirty-first Regiment New York Volunteer Infantry, and served continuously in said regiment until April 18, 1863, when he got a furlough for ten days. While returning from this furlough he was taken ill in Washington, April 27, and before he recovered the regiment left Falmouth, Va., for New York, to be mustered out, May, 1863, its term of service (two years) having expired. Deponent made no serious effort to get his discharge from the Thirty-first Regiment, but in December, 1864, he reenlisted in Company B, Twenty-fourth Massachusetts Volunteer Infantry Regiment, and served continuously in said regiment until January, 1866, when he was honorably discharged. Deponent never was in hospital, and participated in the battle of Bull Run, in 1861; the Peninsula and Maryland campaigns, 1862; Fredericksburg, 1863, and before Petersburg, 1865.

The War Department refuses to grant deponent his discharge from the Thirty-first New York Regiment without special act of Congress, on the ground that he served in the Second Connecticut and the Thirty-first Regiment under the name of Eugene Ellard; while in the Massachusetts regiment he served under the name of Owen Ellard. In reply the deponent states he was, and is to this day, called Owen as a nickname, and the enrolling officer who knew him by this name entered it as such on the company book without inquiring if it was his right name, and the deponent never took the trouble to correct the mistake.

Furthermore, as long as the deponent was honorably discharged from the Massachusetts regiment even under a nickname there is no valid reason for refusing to grant him an honorable discharge from the Thirty-first New York Regiment (which an act of Congress allows to all soldiers who served a certain length of time), because when he enlisted in said regiment he was informed that his service in the three months' regiment would entitle him to a discharge from the Thirty-first Regiment when its term of service expired, which was only three weeks after deponent's furlough expired.

EUGENE ELLARD.

Sworn and subscribed to before me this 19th day of January, 1898.

[SEAL.]

JNO. C. TRUESDALE,

*Notary Public, Montgomery County, Ohio.*

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BROOKLYN, KINGS COUNTY, *State of New York:*

Eugene Ellard, being duly sworn, deposes and says he is now a resident of the National Military Home at Dayton, Ohio. That in 1861, and twenty years prior thereto, he was a citizen of the city of New York, and on the 7th of October, 1861, he enlisted in Company B, Thirty-first Regiment New York Volunteers, and served in said regiment continuously until the 28th day of April, 1863, when he received a furlough for ten days and went home to the city of New York; that he took part in the battles of West Point, Gaines Mill, the Seven Days, and Malvern Hill, Antietam, Crampton Pass, Fredericksburg; that he never deserted, but intended to join the regiment, but was unable to do so.

That he was in city of Baltimore and had been robbed of all his money, and was unable to get to Washington in time to report at time of expiration of his furlough; that he was never in hospital during his service, and did his duty faithfully all of said time; that he desires to have the record of desertion expunged and a pension allowed him as provided by law.

EUGENE ELLARD.

STATE OF NEW YORK, *Kings County*, ss:

The above deposition was taken, subscribed, and sworn to before me this 15th day of May, 1896.

ARTHUR E. PRATT,  
*Justice of Supreme Court of State of New York.*

